

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN JORDAN,

Plaintiff,

No. CIV S-03-1820 LKK KJM P

vs.

CAL A. TERHUNE, et al.,

Defendants.

ORDER

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Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On February 5, 2009, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Plaintiff and defendant Brown have filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis. However, the court has also considered the new evidence submitted by

1 defendant Brown in support of his objections and has concluded that defendant Brown should be
2 given the opportunity to file a renewed motion for summary judgment.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed February 5, 2009 are adopted as
5 follows:

6 A. The action is dismissed as to defendants Lopez and Mericle;


7 B. Defendant Roholfing's Motion for Summary Judgment (docket no. 186) is
8 granted;

9 C. Defendants' Motion for Summary Judgment (docket no. 188) is granted as to
10 all defendants except defendant Brown; and

11 D. Summary judgment (docket no. 188) is denied without prejudice as to
12 defendant Brown.

13 2. Within thirty days of the date of this order, defendant Brown may file a
14 renewed motion for summary judgment; plaintiff's opposition is due thirty days after the motion
15 is filed, with the optional reply due within fifteen days of the filing of the opposition.

16 DATED: September 18, 2009.

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19 LAWRENCE K. KARLTON
20 SENIOR JUDGE
21 UNITED STATES DISTRICT COURT
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